



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

G.P. 2661  
#5  
R. D. Dostek  
06/03/04

In re PATENT Application of  
Geen, *et al.*

Group Art Unit: 2661

Application No. 09/629,057

Examiner: Van Kim T. Nguyen

Filed: July 31, 2000

For: SCALABLE VOICE OVER IP SYSTEM CONFIGURED FOR DYNAMICALLY  
SWITCHING CODECS DURING A CALL

\* \* \* \*

May 24, 2004

**RESPONSE TO OFFICE ACTION**

**\* RECEIVED**

MAY 28 2004

Technology Center 2600

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed February 25, 2004.

Reconsideration and allowance of the above-identified application are respectfully  
requested.

Claims 1-58 are pending in the application.

The indication of allowable subject matter in claims 7-10, 12-14, 21, 22, 27, 28, 35-  
38, 40-42, 50-53, and 55-57 is acknowledged with appreciation.

The rejection of claims 1, 16, 17, 23, 29 and 44 under 35 U.S.C. § 102(b) as being  
anticipated by U.S. Patent No. 5,892,535 (Allen) is respectfully traversed. Applicants  
respectfully submit that claims 1, 16, 17, 23, 29 and 44 are not anticipated by Allen for the  
following reasons.

All claims 1, 16, 17, 23, 29 and 44 require closing a first media channel "based on a  
request for a resource utilizing a second compression." For example, a subscriber may  
request that the media server play a stored e-mail message, in such case, the media server  
sends the text to a text to speech converter, configured to generating audio samples at 64kbs.  
Hence, the text to speech converter outputs G.711-encoded media data to the media server,  
which is incompatible with the internal G.729 codec activated by the IP telephony gateway

for a first media channel. Thus, the first media channel utilizing the G.729 codec is closed and a second media channel opened based on the G.711 codec. See pages 5, line 22 through page 6, line 7 of the present application. Allen simply does not disclose or suggest initiating a change to another resource having a different compression during an IP telephone call. For this reason alone Allen cannot anticipate claims 1, 16, 17, 23, 29 and 44.

Allen is concerned with inserting video advertisements into a video data stream, such as digital cable television. Allen does not disclose or even suggest an IP telephony gateway, let alone a system for establishing a call with an IP telephony gateway as claimed. The alleged IP telephony gateway (202) referred to by the Examiner is in fact a "local media server 202 [that] checks a resident schedule database to determine an appropriate file of compressed media (including e.g. video) data." See column 18, lines 34-38 of Allen. While audio packets may be sent with the video, Allen does not disclose that these audio packets are a digitized telephone call. The audio packets in Allen are unidirectional broadcast packets from the station to remotely located subscribers. There is no teaching in Allen for IP telephony in the form of audio packets to originate from the remotely located subscribers and be sent to the station, nor between remotely located subscribers.

Moreover, local media server (202) provides network feed and local content, and distribution network interface (206) selects "an appropriate one" based on cue tone. See column 18, lines 34-56 of Allen. Allen does not disclose or even suggest "closing" or "starting for the call a second media channel ... according to a second compression," as recited in claims 1, 16, 17, 24, 29 and 44. For this reason alone, Allen cannot anticipate these claims.

Since Allen does not disclose all of the claimed features, Allen cannot anticipate claims 1, 16, 17, 23, 29 and 44. Accordingly, withdrawal of the Section 102(b) rejection is respectfully requested.

The rejection of claims 1, 16, 17, 23, 29 and 44 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,445,697 (Fenton) is respectfully traversed. Applicants respectfully submit that the claims 1, 16, 17, 23, 29 and 44 are not anticipated by Allen for the following reasons.

As stated above, all claims 1, 16, 17, 23, 29 and 44 require closing a first media

channel “based on a request for a resource utilizing a second compression.” For example, the subscriber may request that the media server play a stored e-mail message, in such case, the media server sends the text to a text to speech converter, configured to generating audio samples at 64kbs. Hence, the text to speech converter outputs G.711-encoded media data to the media server, which is incompatible with the internal G.729 codec activated by the IP telephony gateway for the first media channel. Thus, the first media channel utilizing the G.729 codec is closed and a second media channel opened based on the G.711 codec. See pages 5, line 22 through page 6, line 7 of the present application.

Fenton does not disclose any teaching or even a suggestion of a request to initiate a change to another resource having a different compression during a call. Fenton only teaches changing to a different compression for the same resource, not a different resource. Furthermore, Fenton discloses that the gateway makes its own determination to change codecs for its own calls based on detecting an increased number of calls. See column 7, lines 1-10 of Fenton which teaches “as gateway traffic varies between zero and four channels, each channel will be assigned to codec 1. If a fifth channel is requested, the host processor recognizes that it must dynamically associate one of the channels one through four with codec 2 in order to service the fifth channel.” The change of compression in Fenton is initiated by the processor to allow the use of fifth channel by another subscriber.

Moreover, Fenton does not disclose closing a first media channel and starting for the call a second media channel. Rather, codecs are switched on the same media channel, which may result in an audible click. See column 6, lines 30-35 of Fenton.

Since Fenton does not disclose all of the claimed features, Fenton cannot anticipate claims 1, 16, 17, 23, 29 and 44. Accordingly, withdrawal of the Section 102(b) rejection is respectfully requested.

The rejection of claims 1, 2, 4, 6, 11, 16-19, 23-25, 29, 30, 32, 34, 44, 45, 47, 49 and 54 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,584,110 (Mizuta) is respectfully traversed. Applicants respectfully submit that claims 1, 2, 4, 6, 11, 16-19, 23-25, 29, 30, 32, 34, 44, 45, 47, 49 and 54 are not anticipated by Mizuta for the following reasons.

As stated above, all claims 1, 2, 4, 6, 11, 16-19, 23-25, 29, 30, 32, 34, 44, 45, 47, 49 and 54 require closing a first media channel “based on a request for a resource utilizing a

second compression.” For example, the subscriber may request that the media server play a stored e-mail message, in such case, the media server sends the text to a text to speech converter, configured to generating audio samples at 64kbs. Hence, the text to speech converter outputs G.711-encoded media data to the media server, which is incompatible with the internal G.729 codec activated by the IP telephony gateway for the first media channel. Thus, the first media channel utilizing the G.729 codec is closed and a second media channel opened based on the G.711 codec. See pages 5, line 22 through page 6, line 7 of the present application.

Mizuta does not disclose any teaching of a request to initiate a change to another resource during a call having a different compression. Mizuta at best only teaches changing to a different compression for the same resource, not a different resource.

Mizuta at columns 1-4 and Figs. 1-6 discloses a conventional IP telephone system and, indeed, is labeled as “Background of the Invention.” Mizuta is concerned with providing a “gateway having a function of measuring a total delay time, selecting a compression rule accordingly, and selecting a route accordingly” in this conventional IP telephone system. Mizuta provides no disclosure or even a suggestion of how to provide switching of resources during an IP telephony call.

The Examiner states on pages 3-4 of the Office Action that claims 1, 16-19, 23-25, 29 and 44 are anticipated by Mizuta for the following reasons:

... the first media channel configured for transmitting a first media stream according to a corresponding first compression (transmits between zero and four channels according to code 1; col. 7: lines 1-5); initiating closing of the first media channel based on a request for a resource utilizing a second compression (if a fifth channel is requested, degrades one channel between zero and four so it can transmit according to codec 2); and starting for the call a second media channel, configured for transmitting a second media stream according to the second compression, upon closing the first media channel (after degrades one channel between zero and four, starts transmitting on according to codec 2; col. 7: lines 5-11)

Applicants respectfully submit that this teaching cited by the Examiner is not found in Mizuta. Further, this assertion in the Official Action is unfounded and inconsistent with explicit text cited: “The IP packet processor 83 extracts data from IP packets transferred from

a LAN interface 84. If the extracted data is a voice signal, the IP packet processor 83 transfers the voice signal to the codec 82, and if it is a control signal the IP packet processor 83 transfers the control signal to a signal processor 85.” See column 7, lines 5-11 of Mizuta.

Even if the teaching cited by the Examiner were found in Mizuta, this teaching would not anticipate claims 1, 16-19, 23-25, 29 and 44 for the same reasons Allen does not anticipate these claims. The Examiner’s argument relates to changing compression of the same resource, as discussed above in reference to Allen. In contrast, in the claimed invention a different resource having a different compression is selected. Since Mizuta does not disclose all of the claimed elements, Mizuta cannot anticipate claims 1, 16-19, 23-25, 29 and 44.

In regards to claims 2-6, 11, 20, 26, 30, 33, 34, 39, 47- 49 and 54, the Examiner cites columns 1-4 of Mizuta. Columns 1-4 of Mizuta relate to the background of Mizuta, not Mizuta’s teachings. Furthermore, claims 2-6, 11, 20, 26, 30, 33, 34, 39, 47- 49 and 54 are not anticipated over Mizuta for the same reasons claims 1, 16-19, 23-25, 29 and 44 are not anticipated by Mizuta.

Since Mizuta does not disclose all of the claimed features, Mizuta cannot anticipate claims 1, 2, 4, 6, 11, 16-19, 23-25, 29, 30, 32, 34, 44, 45, 47, 49 and 54. Accordingly, withdrawal of the Section 102(e) rejection is respectfully requested.

The rejection of claims 3, 15, 31, 43, 46, and 58 under 35 U.S.C. § 103 as being unpatentable over Mizuta as applied to claims 1, 2, 29, 30, 44 and 45 above is respectfully traversed. Applicants respectfully submit that claims 3, 15, 31, 43, 46, and 58 are not obvious over Mizuta for the same reasons claims 1, 2, 29, 30, 44 and 45 are not obvious over Mizuta for the reasons discussed above and for the following reasons.

In regards to claims 3, 31 and 46, the Examiner admits on page 5 of the Office Action that Mizuta does not teach sending the first media stream according to Real Time Protocol (RTP). In regards to claims 15, 43 and 58, the Examiner admits that Mizuta does not disclose transferring media data from a text to speech resource to the second media channel as the second media stream. The Examiner only provides strained arguments as why these claims are obvious over Mizuta without any citation to supporting documents. Applicants request under MPEP §2144.03 that the Examiner provide a reference that supports the Examiner’s

position, else the rejection should be withdrawn.

Furthermore, Mizuta does not disclose how to address the problems associated with a subscriber requesting a change to a different resource having a different compression than a first resource during an IP telephone call. Applicants respectfully point out that an evaluation of obviousness must be undertaken from the perspective of one of ordinary skill in the art addressing the same problems addressed by the applicant in arriving at the claimed invention. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, 23 USPQ 416, 420 (Fed. Cir. 1986), cert. denied, 484 US 823 (1987). Thus, the claimed structures and methods cannot be divorced from the problems addressed by the inventor and the benefits resulting from the claimed invention. In re Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989). Applicants respectfully submit that the Examiner has not provided a prima facie case of obviousness and for that reason alone the Section 103 rejection should be withdrawn.

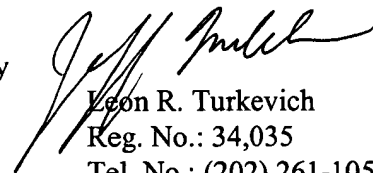
Even if a prima facie case has been provided, claims 3, 15, 31, 43, 46, and 58 are not obvious over Mizuta since Mizuta does not teach these claim features in combination with closing a first media channel "based on a request for a resource utilizing a second compression" as recited in each of the respective base claims.

Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

Since all of the objections and objections of record have been addressed, it is believed that the application is in condition for allowance and Notice to that effect is respectfully requested.

Respectfully submitted,

By



Leon R. Turkevich  
Reg. No.: 34,035  
Tel. No.: (202) 261-1059  
Fax. No.: (202) 887-0336

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